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PAGES (incl. cover page 7)

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To
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FAX NUMBER
571-273-8300

FROM
Kevin G. Shaw

Hogan Lovells US LLP

202-637-5600

2011 MAY 18 PM 3:30

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May 16, 201

Matter ref: 28276-0096

Confirmation No.: 7805

U.S. Patent No.: 6,859,317
Issue Date: February 22, 2005
Patentee: Gregory G. Cappiello *et al.*
Title: DIFFRACTION GRATING FOR WAVELENGTH DIVISION
MULTIPLEXING/DEMULTIPLEXING DEVICES
Attn.: Office of Petitions
Examiner: Diane C. Goodwyn, Petitions Examiner
Docket No.: 28276-0096
Customer No.: 24633

MESSAGE

PLEASE SEE ATTACHED

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PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

Docket Number (Optional)

28276-0096

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

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NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6859317Application Number 09724803Issue Date 02/22/2005Filing Date 11/28/2000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above - identified patent

☐

Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper ("along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

May 16, 2011

Date



Signature

Kevin G. Shaw

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490.00	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ Paid Earlier

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1,640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ Paid Earlier

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ _____

☐ Please charge Deposit Account No. _____ the sum of \$ _____

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 50-1349

PTO/SB/86 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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As to any overpayment made please

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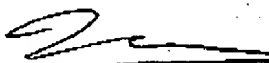
WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED


Signature(s) of Petitioner(s)

Kevin G. Shaw

Typed or printed name(s)

202-637-6466

Telephone Number

May 16, 2011

Date

43110

Registration Number, if applicable

555 Thirteenth Street, N.W.

Address

Washington, D.C. 20004

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES



Maintenance Fee Payment



Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)



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T-286 P.005/007 F-320

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.: 7805

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Issue Date: February 22, 2005
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Attn.: Office of Petitions
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Mail Stop: PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE AND PETITION FOR RECONSIDERATION UNDER 37 C.F.R. 1.378(e)

Sir:

In response to the Decision on the Petition Under 37 C.F.R. 1.378(c) ("Petition Decision") mailed April 15, 2011, Patentee responds and submits a properly signed petition for reconsideration under 37 C.F.R. 1.378(e) as requested in the Petition Decision for the above-identified patent as follows:

Remarks begin on page 2 of this paper.

U.S. Patent No. 6,859,317
Response and Petition dated May 16, 2011
In response to Petition Decision dated April 15, 2011

REMARKS

Patentee appreciates the Examiner's careful review of the petition as detailed in the Petition Decision mailed April 15, 2011 (the "Petition Decision"). The Petition Decision DISMISSED Patentee's petition under 37 C.F.R. 1.378(c) to accept the delayed payment of a maintenance fee in the above-identified patent. Patentee respectfully requests reconsideration of this decision under 37 C.F.R. 1.378(e). Patentee's petition was dismissed because the petition was not signed by an attorney or agent of record, the patentee, or the assignee or other party in interest in accordance with 37 C.F.R. 3.78(d). The Petition Decision requested a petition for reconsideration including a proper statement that the delay was unintentional signed in accordance with 37 C.F.R. 1.378(d) as this was lacking in the original petition filed by Patentee on February 17, 2011.

Patentee has attached a corrected petition to accept the unintentionally delayed payment of a maintenance fee under 37 C.F.R. 1.378(c), properly signed by an attorney of record registered to practice before the Patent and Trademark Office. The attached petition now includes a properly signed statement of unintentional delay in accordance with 37 C.F.R. 1.378(d).

Pursuant to this properly signed petition for reconsideration under 37 C.F.R. 1.378(e) and the attached properly signed petition for unintentionally delayed payment of maintenance fee under 37 C.F.R. 1.378(c), Patentee respectfully requests that the petitions and the unintentionally delayed payments of the maintenance fee be accepted.

The Petition Decision indicated that any petition for reconsideration must be accompanied by a petition fee of \$400 as set forth in 37 C.F.R. 1.17(f) and also by the items indicated as lacking (properly signed petition under 37 C.F.R. 1.378(c)). This petition for reconsideration is accompanied by a payment of the petition fee and a properly signed petition under 37 C.F.R. 1.378(c) is attached.

Patentee is not submitting the maintenance fee with this petition, because this maintenance fee was paid earlier in the petition under 37 C.F.R. 1.378(c) filed February 17, 2011. The surcharge fee required by 37 C.F.R. 1.20(i)(2) was also paid in the earlier February 17, 2011 petition. However, to the extent that any required fees were not paid in connection with the February 17, 2011 petition, the Director is authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 501349.

U.S. Patent No. 6,859,317
Response and Petition dated May 16, 2011
In response to Petition Decision dated April 15, 2011

CONCLUSION

In view of the foregoing, an acceptance of the unintentionally delayed payment of a maintenance fee is respectfully requested.

In the event that an appropriate fee amount is not enclosed by check for any fees due in connection with the filing of this Response or requisite extensions of time, please charge any deficiencies or credit any overpayments to Deposit Account No. 50-1349.

Finally, the Examiner is invited to contact the undersigned by telephone to discuss any matters that the Examiner feels may expedite the progress of the present application toward allowance.

Respectfully submitted,

HOGAN LOVELLS US LLP

Dated: May 16, 2011

By: 

Kevin G. Shaw
Registration No. 43,110

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